IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No. 6751 of 2005

The State of Maharashtra. ..applicant

vs

Shankar Rama Kamble and ors. .. respondents

Dr.F.R. Shaikh, Addl. P.P for State

CORAM:V.G.PALSHIKAR, Acg, C.J.&

SMT.NISHITA.MHATRE.J.

DATE:AUGUST 30, 2006.

P.C.:-

By this application the State seeks leave to appeal against the order of acquittal passed on 21.6.2005, acquitting all the accused of the offence of assault committed with common intention. The learned Judge on appreciation of evidence on record has observed in para 10 thus:

> "...There is no corroboration of eye witnesses between themselves nor complainant corroborates FIR which is substantive piece of

evidence., Therefore, after taking into consideration all oral evidence of witnesses who are examined by prosecution, as eye witnesses the case of prosecution becomes doubtful".

Then the learned Judge considered lack of evidence of corroborative nature, though factually it is possile for the State to lead the same. Consequently the learned Judge says in para 11 thus:

"It had come in FIR and deposition of the complainant that mother or complainant was also injured by accused persons. Presence of mother of complainant is not denied by any witness who are examined by the prosecution. In this situation, it was duty of prosecution to examine mother of the complainant to corroborate the testimony of the complainant. But she has not been examined by the prosecution

which also makes prosecution's case doubtful".

This, in our opinion, is the correct appreciation of evidence on record. Hence no interference is called for. Application dismissed.